

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

STEPHANIE M. RONEY,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 5:18-cv-1482-CLS
)	
CITY OF HUNTSVILLE,)	
ALABAMA,)	
)	
Defendant.)	

ORDER

This case is before the court on defendant’s motion to dismiss plaintiff’s First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).¹ Upon consideration of the motion, briefs, and oral arguments of counsel, the motion to dismiss is GRANTED in part and DENIED in part. It is ORDERED as follows:

(1) Plaintiff’s sex discrimination claim (Count One) is DISMISSED due to plaintiff’s failure to allege an actionable adverse employment action, and also because she did not allege a claim for a sexually hostile work environment.

(2) Plaintiff’s retaliation claim (Count Two) remains pending. With regard to her claim of pre-EEOC-charge retaliation, plaintiff plausibly alleged retaliatory actions that might dissuade a reasonable person from making complaints of

¹ Doc. no. 28.

harassment. She also alleged a sufficient causal connection between her protected activity and defendant's retaliatory actions. With regard to her claim of post-EEOC-charge retaliation, plaintiff did not fail to exhaust her administrative remedies. Her claim grows out of her first EEOC charge, which is properly before this court. This court will not adopt the Eleventh Circuit's unpublished opinion in *Duble v. FedEx Ground Package Systems, Inc.*, 572 F. App'x 889, 892-93 (11th Cir. 2014).

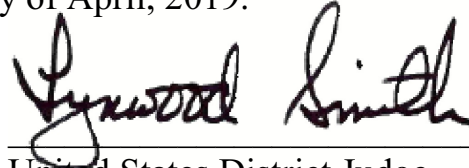
(3) Plaintiff's disability discrimination claim (Count Three) is DISMISSED because plaintiff failed to allege that defendant denied a reasonable accommodation to which she was entitled under either the Americans with Disabilities Act or Rehabilitation Act.

(4) Plaintiff's FMLA claim will remain pending because plaintiff plausibly alleged that defendant interfered with her right to take FMLA leave by threatening her with termination, counseling her after she used leave, and requiring her to submit additional paperwork to support leave requests.

(5) Plaintiff's claim for backpay damages is DISMISSED because she has not alleged that she lost any pay or other benefits as a result of defendant's allegedly discriminatory acts.

(6) The parties must immediately proceed to discovery in accordance with the Uniform Initial Order (doc. no. 15).

DONE and ORDERED this 22nd day of April, 2019.

A handwritten signature in black ink, reading "Lynwood Smith". The signature is written in a cursive style with a large initial "L".

United States District Judge